

AO 91 (Rev. 08/09) Criminal Complaint

**FILED**  
 UNITED STATES DISTRICT COURT  
 LAS CRUCES, NEW MEXICO

## UNITED STATES DISTRICT COURT

MAY 24 2022

for the

District of New Mexico

**MITCHELL R. ELFERS**  
 CLERK OF COURT

United States of America

v.

Tyler Cole

Case No. 22 860 MJ

Defendant(s)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 1, 2021 in the county of Grant in the  
District of New Mexico, the defendant(s) violated:

Code Section

Offense Description

Title 18 USC 922 (g)(1)

Possessing a firearm and/or ammunition that had moved in or affected interstate commerce while being a felon.

This criminal complaint is based on these facts:

See attached affidavit.

☒ Continued on the attached sheet.

Complainant's signature

Victor M. Tellez, HSI Special Agent

Printed name and title

via telephone.  
 Sworn to before me and signed in my presence.

Date: 05/24/2022

Judge's signature

City and state: Las Cruces, New Mexico

Gregory J. Fouratt, U.S. Magistrate Judge

Printed name and title

**AFFIDAVIT IN SUPPORT OF COMPLAINT**

I, Victor M. Tellez, a Special Agent with Homeland Security Investigations (HSI), being duly sworn, state that:

1. I am a Special Agent with HSI and have been working in this capacity since June of 2016. I am currently assigned to the Drug Enforcement Administration (DEA) Strike Force in Las Cruces, New Mexico to investigate crimes related to narcotics, firearms, criminal aliens, and money laundering that occur in the State and District of New Mexico.
2. As a result of my training and experience as an HSI Special Agent, I am familiar with federal criminal laws and know that it is a violation of Title 18 United States Code § 922(g)(1), for any person who has been convicted of a felony crime, that is a crime punishable by imprisonment for a term exceeding one year, to possess a firearm or ammunition in or affecting interstate commerce.
3. On September 1, 2021, a State of New Mexico Search Warrant, authorized by Grant County District Court Judge Jennifer E. Delaney, was executed on a silver in color Dodge Challenger, registered to and driven by Tyler Cole. During the search of the vehicle, a Glock 9mm handgun, loaded with 17 live rounds of ammunition, was found wedged between the seat and the center console. Additionally, a Glock 9mm magazine loaded to capacity with an additional 17 rounds of ammunition was found in the sunglass compartment in the ceiling of the vehicle. Prior to obtaining the search warrant, Silver City Police Department (SCPD) Officer William Lara had stopped Cole for traffic violations. Cole was the driver and sole occupant of the vehicle. Cole claimed the gun belonged to his girlfriend and that he did not know that it was in the vehicle.

4. On May 18, 2022, I reviewed Cole's criminal history and observed multiple felony convictions.

- a. On June 16, 2014, in New Mexico case D-608-CR-201400082, Cole was convicted of possession of a controlled substance (a fourth-degree felony). Cole was given a deferred sentence and placed on supervised probation for 5 years. On June 2, 2015, Cole's probation was revoked, and he was sentenced to 18 months custody for the Possession of a Controlled Substance count, to run concurrently with the sentence imposed in D-608-CR-201400084.
- b. On June 16, 2014, in New Mexico case D-608-CR-201400084, Cole was convicted of trafficking by possession with intent to distribute a controlled substance, heroin, (a second-degree felony), tampering with evidence, (a third-degree felony), and possession of a controlled substance, methamphetamine. Cole was given a deferred sentence and placed on supervised probation for 5 years. On June 2, 2015, Cole's probation was revoked, and he was sentenced to 9 years custody for the trafficking count, 3 years custody for the tampering with evidence count, and 18 months for the possession of a controlled substance count, all to run concurrently. The court suspended 18 months, and the defendant was committed to the New Mexico Corrections Department for a total of 7 years and 6 months, to run concurrently with the sentence i imposed in D-608-CR-201400082.
- c. On June 1, 2015, in New Mexico case D-608-CR-201400152, Cole was convicted of Escape or Attempt to Escape from Jail (a fourth-degree felony). Cole was sentenced to 18 months of supervised probation.

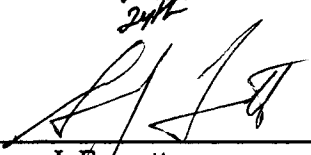
5. I have consulted with an Interstate Nexus trained Special Agent who advised that neither Glock Firearms nor ammunition are manufactured in the State of New Mexico and that the firearm and ammunition seized in this case therefore must have traveled in and affected interstate commerce before Cole possessed it.

6. Based upon the aforementioned information, I believe that on or about September 1, 2021, Cole, a convicted felon, was in possession of a firearm and/or ammunition in violation of 18 U.S.C 922 (g)(1). This violation occurred in the Country of Grant, in the District of New Mexico.

Respectfully submitted,

  
\_\_\_\_\_  
Victor M. Tellez, HSI Special Agent

Electronically submitted and telephonically sworn  
before me this ~~23<sup>rd</sup>~~ day of May 2022.

  
\_\_\_\_\_  
Gregory J. Fouratt,  
United States Magistrate Judge